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09/810,800	03/15/2001	Mark Hamilton Jones	5450 PA02	6814

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3711

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/810,800

Applicant(s)

JONES, MARK HAMILTON

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,2,4,7 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by Powell.

Powell teaches a table having numbered indicia (Col.5, lines 20-23) for placing bets, a number selector (38), a display associated with the table (50) viewable by all players, the number selector being agitated balls to singulate a ball (50,54,58, 60), a numerical processor (72) controlling a screen (76).

3. Claim 1 stands rejected under 35 U.S.C. 102(e) as being anticipated by Perrie. Perrie teaches a table with number indicia (50), a number selector display (10).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Powell.

Powell teaches all limitations of these claims except that it does not teach 38 balls numbering 1-38. Powell does teach numbering of balls (col.5, lines 20-23). In order to match the roulette theme, it would have been obvious to numbering balls 1-38. One of ordinary skill in art at the time the invention was made would have numbered balls according to the theme of the game.

6. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Powell in view of Kuhlman.

Powell teaches all limitations of this claim except that it does not teach a camera arrangement for such purposes. Kuhlman teaches having a camera (22), a display for displaying selected number (25). Examiner views such limitations to be commonly known in the art area. In order to demonstrate the selected number, it would have been obvious to install a camera as commonly known in the art area. One of ordinary skill in art at the time the invention was made would have installed camera.

7. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Powell in view of Orselli.

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Powell teaches all limitations of this claim except that it does not teach table having numbered indicia from 1-38. Orselli teaches a roulette table with similar indicia. In order for players to readily select numbers it would have been obvious to provide numbers on the table. One of ordinary skill in art at the time the invention was made would have provided numbered indicia on the table. Applicant might argue that Orselli does not show indicia numbers 37,38. In view of examiner this is a choice of preference of the house.

8. Claims 10-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Powell in view of Levy.

Powell teaches all limitations except that it does not teach remote activation of game. Levy teaches a remote activation of the game (col.5, lines 10-30). In order to play the game on communication network, it would have been obvious to use remote technology. One of ordinary skill in art at the time the invention was made would have used remote technology to play the game.

9. Claims 12-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Powell in view of Huard.

Powell teaches all limitations except that it does not teach using cards for random selection. Huard teaches cards (col.6, lines 31-35) for random selection. In order to make the game interesting, it would have been obvious to use cards as random selection device. One of ordinary skill in art at the time the invention was made would have used a set of cards. Cards however are commonly known in art area as means of chance selection.

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Treavis, Herzenberger, Carroll, Seelig all teach similar limitations..

***Response to Arguments***

11. Applicant's arguments filed 8/19/02 have been fully considered but they are not persuasive.

The applicant is reminded that all claims are treated for their broadest reasonable interpretations. For that reason a flat surface of Powell's apparatus can be called a table in-spite of a slight slant. Applicant's limitation "for placing a bet" does not necessarily mean "placing a physical object such as a coin or a marker on a horizontal surface" and the same can be interpreted as "placing a bet by touching numbered surfaces such as numbers on a calculator". Applicant's arguments that markers can not be placed on "push buttons" is based on applicant's assumption that component 72 has push buttons. For the purpose or arguments a marker can be placed on a slightly slanted surface.

Applicant's argument that Powell does not have "number indicia" on a table is not persuasive. The component 72 clearly shows ten rectangular spaces normally used for numbering 0-9. Regarding displaying a singular number or plural numbers, the display in powell is capable of displaying a singular number.

Regarding placing indicia numbers "37" and "38" instead of "0" and "00", examiner takes the position that the same would be a choice of personal preference.

Further levy clearly teaches remote activation of the game and Huard clearly teaches cards as a means for random selection.

An apparatus claim is examined on the merit of its structural limitations in the claim. For that matter Perrie also discloses all limitations of claim 1 when interpreted reasonably and broadly.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on (703) 308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Vishu K Mendiratta  
Examiner  
Art Unit 3711

VKM  
October 29, 2002

A handwritten signature in black ink, appearing to read "Benjamin H. Layno", with a stylized flourish at the end.

Benjamin H. Layno  
Primary Examiner